

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Conor O'Shea	Team: Squad #5	CCRB Case #: 201905944	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 07/07/2019 4:22 AM	Location of Incident: § 87(2)(b)	Precinct: 78	18 Mo. SOL 1/7/2021	EO SOL 8/24/2021	
Date/Time CV Reported Sun, 07/07/2019 8:43 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 07/07/2019 8:43 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Hassan Paris	10125	930907	078 PCT
2. POM Jonathan Ruiz	08409	963729	078 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Hassan Paris	Abuse: Police Officer Hassan Paris damaged § 87(2)(b)'s property.	§ 87(2)(b)
B.POM Hassan Paris	Abuse: Police Officer Hassan Paris threatened to arrest § 87(2)(b)	§ 87(2)(b)
C.POM Hassan Paris	Abuse: Police Officer Hassan Paris threatened to issue a summons to § 87(2)(b)	§ 87(2)(b)
D.POM Hassan Paris	Abuse: Police Officer Hassan Paris failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
E.POM Jonathan Ruiz	Abuse: Police Officer Jonathan Ruiz failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)

### Case Summary

On July 7, 2019, § 87(2)(b) filed this complaint online with the CCRB.

On July 7, 2019, at approximately 4:22 a.m., Police Officer Hassan Paris and Police Officer Jonathan Ruiz—both from the 78<sup>th</sup> Precinct—responded to a radio run for a family dispute between § 87(2)(b) and her mother, § 87(2)(b) at their shared residence, located at § 87(2)(b) in Brooklyn. § 87(2)(b) owns the residence. Using a hammer and tacks or nails, PO Paris installed a mesh screen over the doorframe atop the stairwell down to the cellar, which did not have a door, damaging § 87(2)(b)'s property in the process (**Allegation A: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) and PO Paris argued about the mesh screen and whether she needed to have a door in that doorway. PO Paris allegedly threatened to arrest § 87(2)(b) (**Allegation B: Abuse of Authority, § 87(2)(g)**). PO Paris allegedly threatened to issue § 87(2)(b) a summons (**Allegation C: Abuse of Authority, § 87(2)(g)**). PO Paris and PO Ruiz departed the location without providing § 87(2)(b) their business cards (**Allegations D and E: Abuse of Authority, § 87(2)(g)**).

The investigation obtained two cell phone videos from § 87(2)(b) the first of which captures the majority of the incident (**Board Review 01**, summarized at **Board Review 02**) and the second of which depicts the mesh screen hanging over the doorway (**Board Review 03**, also summarized at **Board Review 02**). The investigation also obtained two BWC videos from PO Ruiz, which capture the majority of the incident (**Board Review 04** and **05**, both summarized at **Board Review 06**). All references to video evidence below refer to the time stamp in the video player, not the on-screen clock embedded in the video itself.

On July 10, 2019, this case was reassigned from Inv. Concha-Toro to Inv. O'Shea. On July 16, 2019, this case was sent to mediation. On August 26, 2019, this case was returned to investigation as it was no longer suitable for mediation.

### Findings and Recommendations

#### **Allegation A—Abuse of Authority: Police Officer Hassan Paris damaged § 87(2)(b)'s property.**

The following facts are undisputed. § 87(2)(b) and § 87(2)(b) resided at § 87(2)(b) in Brooklyn and shared a multi-level unit that covers the ground and first floors, which are connected by an interior stairwell. Officers from the 78<sup>th</sup> Precinct, including PO Paris, frequently responded to family disputes between § 87(2)(b) and § 87(2)(b) regarding small issues such as items being moved around the apartment. § 87(2)(b) and § 87(2)(b) had orders of protection against one another (**Board Review 07, 08**). § 87(2)(b) primarily slept and remained on the ground floor while § 87(2)(b) primarily resided upstairs on the first floor. The ground floor had a doorway for another stairwell leading down to the cellar. Prior to the incident, § 87(2)(b) removed the broken door from that doorway and did not replace it. § 87(2)(b) then installed a hanging mesh screen in the doorframe. On the day before the incident, § 87(2)(b) or her property manager removed the mesh screen. § 87(2)(b) subsequently called 911 to report that § 87(2)(b) had harassed her by removing the screen, thereby violating the order of protection. PO Paris and PO Ruiz responded to § 87(2)(b)'s report of harassment.

§ 87(2)(b) requested that PO Paris assist her with reinstalling the mesh screen over the door, and she gave him tacks or nails to do so. Using a hammer, PO Paris hung the mesh screen over the doorway, at least slightly damaging the door frame in the process with each tack or nail that he hammered into the wood.

PO Ruiz's second BWC video (**Board Review 05**) depicts the events preceding PO Paris hanging the mesh screen. Between 02:33 and 09:05, which is when § 87(2)(b) asks PO Paris to put the mesh screen up for her, PO Paris and § 87(2)(b) argue back and forth about whether § 87(2)(b) needs to have a door in the doorway to the cellar. From that point forward, PO Ruiz's BWC overlaps entirely with § 87(2)(b)'s cell phone video. At no point in this video

does § 87(2)(b) object to PO Paris hanging the mesh screen.

§ 87(2)(b)'s cell phone video (**Board Review 01**) depicts the following. Between 00:10 and 01:50, PO Paris handles the mesh screen in question. PO Paris tries to hang the mesh screen over the door frame but asks § 87(2)(b) if she has a hammer, and she fetches him one. Between 01:50 and 05:42, PO Paris uses the hammer and “tacks” to nail the mesh screen over the door frame. Although § 87(2)(b) and PO Paris argue about whether § 87(2)(b) needs to replace the door, at no point does she ever object to PO Paris assisting § 87(2)(b) with hanging the mesh screen.

PO Paris (**Board Review 09**) testified that he only hung the mesh screen in order to assist § 87(2)(b) and resolve the issue at hand between her and § 87(2)(b). On previous occasions when responding to § 87(2)(b)'s calls, PO Paris has helped her with other issues around the house such as fixing her cable. He viewed his conduct in this case as similarly assisting her with something she needed or wanted to do around the house but was unable to do herself. PO Paris believed that, as a co-tenant, § 87(2)(b) had the right to hang a picture on the wall and viewed this as a similar home repair which she was entitled to make.

Property damage claims are properly analyzed under the Fourth Amendment's reasonableness standard. Onderdonk v. State, 170 Misc. 2d 155 (1996) (**Board Review 10**).

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Allegation B—Abuse of Authority: Police Officer Hassan Paris threatened to arrest § 87(2)(b).**

**Allegation C—Abuse of Authority: Police Officer Hassan Paris threatened to issue a summons to § 87(2)(b).**

§ 87(2)(b) (**Board Review 11**) testified that PO Paris threatened to arrest her if he had to return to her apartment for another dispute with § 87(2)(b). At § 87(2)(b)'s insistence, PO Paris and PO Ruiz searched on their cell phones for some legal authority that would prove to her that she was obligated, as the property owner, to install a door atop the stairwell leading from the ground floor down to the cellar. After failing to do so, PO Paris asked § 87(2)(b) if she wanted him to issue her a ticket for the supposed, unspecified Building Codes violation regarding the doorway. § 87(2)(b) interpreted this remark to be a threat to issue her a summons.

PO Paris (**Board Review 09**) acknowledged threatening § 87(2)(b) with arrest if he had to return to the location to handle similar disputes over the mesh screen. PO Paris believed that further issues regarding the mesh screen would have constituted unlawful harassment under § 87(2)(b)'s order of protection against § 87(2)(b) and that further calls in regards would provide probable cause to arrest § 87(2)(b) for violating the order of protection. PO Paris did not remember making any statements to § 87(2)(b) about summonses. PO Paris did not know if the absence of the door constituted a summonsable offense, although he believed it might violate an unspecified building regulation, for which he was not sure he had the authority issue a summons.

PO Ruiz (**Board Review 12**) testified that he did not remember anything specific about this incident, except that it involved a dispute over a door that § 87(2)(b) had removed.

PO Ruiz's second BWC video (**Board Review 05**) depicts the following. Between 01:07 and 02:35, § 87(2)(b) tells PO Paris her narrative of “harassment” ongoing at her residence, to which § 87(2)(b) has been subjecting her, while PO Ruiz fills out the Domestic Incident Report (DIR). § 87(2)(b) specifically mentions the removal of the mesh screen as part of this harassment, given that it happened multiple times. § 87(2)(b) expresses annoyance at § 87(2)(b)'s actions regarding the mesh screen.

§ 87(2)(b) believed that PO Paris threatening to arrest her or issue her a summons would be captured on her cell phone video. However, § 87(2)(b)'s cell phone video (**Board Review 01**) did not show PO Paris making any such explicit threats. Between 13:32 and 15:56, PO Paris and § 87(2)(b) discuss the condition of the home. PO Paris makes several mentions of possible violations to which § 87(2)(b) could be subject, but he does not explicitly threaten to issue her a summons. Between 22:53 and 23:16, PO Paris and PO Ruiz discuss whether either of them has a criminal summons on hand. Between 23:16 and 26:40, PO Paris says, "If we ever come back here, we already made note of, uh, the door and the stairs and the railing. If we come back, this, um, Officer Paris is on the record, and if this doesn't get fixed, just refer to him—to me—and then they'll contact me." Later, between 23:16 and 26:40, § 87(2)(b) asks the officers to tell § 87(2)(b) to keep her hands off of the steel wool she had been using for pest control. PO Paris agrees with § 87(2)(b) that § 87(2)(b) moving the steel wool against § 87(2)(b)'s wishes could be harassment. At 25:45, PO Paris tells § 87(2)(b) "Do not put anything in her § 87(2)(b)'s bathroom. If we're gonna come back here and I hear this over the radio—do not put anything in her bathroom." The officers then depart as the incident concludes.

§ 87(2)(g)

§ 87(2)(b)'s order of protection against § 87(2)(b) (**Board Review 07**) requires that § 87(2)(b) refrain from committing any criminal offense, including specifically "harassment and aggravated harassment," and further requires that § 87(2)(b) refrain from "verbally abus[ing]" § 87(2)(b). The order of protection does not prohibit § 87(2)(b) from merely annoying § 87(2)(b). Although the copy of the order of protection that § 87(2)(b) was able to provide states that it will expire before this incident, § 87(2)(b) confirmed that it remained active as of the incident date, given their recent court date extending its effect beforehand.

A person commits Harassment in the Second Degree under NY Penal Law Section 240.26 (Board Review 13) whenever, "with intent to harass, annoy, or alarm another person," she "engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose." Although Harassment in the Second Degree is a non-criminal violation, it is an arrestable offense.

§ 87(2)(g)

§ 87(2)(g)

**Allegation D—Abuse of Authority: Police Officer Hassan Paris failed to provide § 87(2)(b) with a business card.**

**Allegation E—Abuse of Authority: Police Officer Jonathan Ruiz failed to provide § 87(2)(b) with a business card.**

It is undisputed that PO Paris and PO Ruiz entered § 87(2)(b)'s residence with consent during this incident. While speaking to the women and examining various elements of the apartment at § 87(2)(b)'s request, PO Paris and PO Ruiz walked around almost the entire ground floor and living room area, as well as upstairs and into the upstairs hallway by § 87(2)(b)'s bedroom. No arrest or summons resulted.

§ 87(2)(b) (**Board Review 11**) testified that neither PO Paris nor PO Ruiz provided her with a business card. She did not request one.

PO Paris (**Board Review 09**) testified that he was equipped with business cards on the incident date. When asked if he provided § 87(2)(b) with one, PO Paris was initially non-responsive, instead stating that he had seen § 87(2)(b) numerous times for incidents like this one and had given her business cards on prior occasions. Ultimately, PO Paris clarified that he did not remember if he gave her a card during this specific incident.

PO Ruiz (**Board Review 12**) remembered only the general contours of this incident. He did not remember whether he or PO Paris provided § 87(2)(b) with a business card.

§ 87(2)(b)'s cell phone video (**Board Review 01**) and PO Ruiz's two BWC videos (**Board Review 04, 05**) provide a comprehensive record of the incident. At no point does PO Paris or PO Ruiz offer or provide a business card to § 87(2)(b) before departing the location. § 87(2)(g)

NYC Administrative Code 14-174 (**Board Review 14**) requires that officers who engage in a "law enforcement activity," including a "home search," must provide a business card to the subject of the search, absent certain exceptions not present in this case. There is no exception for officers who repeatedly encounter the same civilians.

§ 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first and only CCRB complaint in which § 87(2)(b) has been named as a complainant or a victim. § 87(2)(b)
- PO Paris has been a member of service for 17 years and has been named a subject in five other CCRB complaints and seven other allegations, none of which was substantiated. § 87(2)(g)
- PO Ruiz has been a member of service for two years. This is the first and only CCRB complaint in which he has been named a subject.

#### **Mediation, Civil and Criminal Histories**

- On July 16, 2019, this case was sent to mediation. On August 26, 2019, this case was returned to investigation as it was no longer suitable for mediation.
- As of February 11, 2020, the NYC Office of the Comptroller has no record of any Notice of Claim from § 87(2)(b) regarding this incident (**Board Review 16**).
- According to the Office for Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**Board Review 17**).

Squad No.: #05

Investigator:	_____	Investigator <u>Conor O'Shea</u>	_____
	Signature	Print Title & Name	Date
Squad Leader:	_____	Inv. Manager <u>Daniel Giansante</u>	_____
	Signature	Print Title & Name	Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date